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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/631,126	07/31/2003	Jeffrey L. Huckins	ITL.1037US (P17124)	2466	
21906	7590	04/06/2006	EXAMINER		
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024		SANTIAGO CORDERO, MARIVELISSE			
		ART UNIT		PAPER NUMBER	
		2617			

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/631,126	HUCKINS, JEFFREY L.
	<b>Examiner</b>	<b>Art Unit</b>
	Marivelisse Santiago-Cordero	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) 12-15 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I (claims 1-11) in the reply filed on 12/5/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Response to Arguments***

2. Applicant's arguments filed on 3/23/06 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., attempting to access a computer and, an in response, sending a signal) (See Remarks: page 6, 3<sup>rd</sup> paragraph) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. In response to applicant's arguments that there is no basis in the references to reason from Flodén or Kotola to arrive at the claimed solution (See Remarks: page 6, 3<sup>rd</sup> paragraph), the Examiner respectfully disagrees. Regarding amended claim 1, e.g., Kotola discloses the claimed solution, i.e., to enable operation of the system. See e.g., Kotola's Abstract where it discloses controlling a BLUETOOTH device from a different BLUETOOTH device wherein the controlled device executes received commands, hence, enabling operation of the system. Regarding amended claim 4, e.g., Kotola discloses the claimed solution, i.e., to enable use of the

remote processor-based system. See e.g., Kotola's Abstract where it discloses controlling a BLUETOOTH device from a different BLUETOOTH device, hence, enabling use of the system. Regarding amended claim 9, e.g., Kotola discloses the claimed solution, i.e., to enable access to the system. See e.g., Kotola's Abstract where it discloses controlling a BLUETOOTH device from a different BLUETOOTH device, hence, by controlling the device is enabling access of the system. Regarding the use of Flodén to arrive at the claimed solution, Flodén discloses enabling operation, use and access to a system (col. 8, lines 21-44).

5. In response to applicants arguments that references only concern themselves with authenticating wireless users, not preventing unauthorized users from accessing a computer system (See Remarks: page 6, 3<sup>rd</sup> paragraph), it is noted that the features upon which applicant relies (i.e., preventing unauthorized users from accessing a computer system) (See Remarks: page 6, 3<sup>rd</sup> paragraph) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, it is contended that when authenticating users from accessing a computer system, is preventing unauthorized users from accessing it since an advantage of authentication is for preventing unauthorized users.

6. Furthermore, Applicant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

7. For the reasons stated above, the rejection is maintained as stated in the last Office Action. Accordingly, this Action is made FINAL.

*Specification*

8. The use of the trademark BLUETOOTH has been noted in this application (see e.g., page 5, line 2). Each letter should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity as trademarks.

*Claim Rejections - 35 USC § 112*

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 is indefinite since it is unclear to what system the limitation “said system” is referring to since claim 4, from which claim 8 depends, discloses a processor-based system and a remote system.

*Claim Rejections - 35 USC § 102*

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 4, and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Flodén et al. (hereinafter “Flodén”; Patent No.: 6,230,002).

Regarding claim 1, Flodén discloses a method comprising: receiving a wireless signal in a handheld device in response to a request to operate a processor-based system (col.. 8, lines 19-33; note that by requesting communication initiation, it is requesting operation of a processor-based system); accessing credential information in a subscriber information module (col. 8, lines 33-37); and transmitting information related to said credential information to said processor-based system to enable operation of said system (col. 8, lines 40-44).

Regarding claim 4, Flodén discloses a processor-based system comprising: a wireless interface (Fig. 1; note the antenna); a subscriber information module (Fig. 1, reference 101; and a device, coupled to said module, to receive a wireless request to access a remote system (Fig. 1; col. 2, lines 5-14), to obtain credential information from said module (Fig. 1; col. 2, lines 5-14), and to provide said credential information to said remote processor-based system to enable use of said remote processor-based system (Fig. 1; col. 2, lines 5-14).

Regarding claim 8, Flodén discloses the system of claim 4 wherein said system is a cellular telephone (Fig. 1).

Regarding claim 9, Flodén discloses an article comprising a medium storing instructions that, if executed, enable a processor-based system to: receive a wireless signal in a handheld device in response to a request to use a processor-based system (col.. 8, lines 19-33; note that by requesting communication initiation, it is requesting to use a processor-based system); and access credential information in a subscriber information module (col.. 8, lines 19-33); and

transmit information related to said credential information to said processor-based system to enable access to said system (col.. 8, lines 19-33).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 1-2, 4-5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotola (Pub. No.: US 2005/0009469) in view of Flodén.

Regarding claim 1, Kotola discloses a method comprising: receiving a wireless signal in a handheld device in response to a request to operate a processor-based system (pages 1-2, paragraph [0009]; page 3, paragraphs [0026]-[0027]); and transmitting information related to said credential information to said processor-based system to enable operation of said system (page 3, paragraphs [0026]-[0027]).

Kotola fails to disclose accessing credential information in a subscriber information module. Kotola, however, suggests that other methods of authorization information distribution can be used to suit the level security required.

However, in the same field of endeavor, Flodén discloses receiving a wireless signal in a handheld device in response to a request to operate a processor-based system (col.. 8, lines 19-33); and accessing credential information in a subscriber information module (col. 8, lines 33-37).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to access the credential information of Kotola in a subscriber information module.

One of ordinary skill in this art would have been motivated to access the credential information in a subscriber information module because it would secure the transmission and prevent fraud.

Regarding claim 2, in the obvious combination, Kotola discloses including receiving a wireless signal pursuant to a protocol with a relatively short range to generate said wireless signal (Abstract; Figs. 1-2).

Regarding claim 4, Kotola discloses a processor-based system comprising: a wireless interface (Fig. 1, note the antenna); and a device, to receive a wireless request to access a remote system, to obtain credential information (pages 1-2, paragraph [0009]; page 3, paragraphs [0026]-[0027]), and to provide said credential information to said remote processor-based system to enable use of said remote processor-based system (page 3, paragraphs [0026]-[0027]).

Kotola fails to disclose a subscriber information module. Kotola, however, suggests that other methods of authorization information distribution can be used to suit the level security required.

However, in the same field of endeavor, Flodén discloses a processor-based system comprising: a wireless interface (Fig. 1; note the antenna); a subscriber information module (Fig. 1, reference 101; and a device, coupled to said module, to receive a wireless request to access a remote system (Fig. 1; col. 2, lines 5-14), to obtain credential information from said module (Fig. 1; col. 2, lines 5-14), and to provide said credential information to said remote processor-based system to enable use of said remote processor-based system (Fig. 1; col. 2, lines 5-14).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to incorporate in the processor-based system of Kotola a subscriber information module as suggested by Flodén.

One of ordinary skill in this art would have been motivated to incorporate in the processor-based system a subscriber information module because it would secure the transmission and prevent fraud.

Regarding claim 5, in the obvious combination, Kotola discloses wherein said wireless interface is a short-range wireless interface (Abstract; Figs. 1-2).

Regarding claim 7, in the obvious combination, Kotola discloses wherein said wireless interface includes an antenna (Fig. 1). Kotola in combination with Flodén fail to disclose a dipole antenna.

However, the Examiner takes Official Notice of the fact that it is notoriously well known in the art to use dipole antennas. Therefore, it would have been obvious to one of ordinary skill

in this art at the time of invention by applicant to incorporate the antenna of Kotola/Flodén as a dipole antenna because they are more cost-effective if, e.g., manufacturing a mass production, since they are less expensive than other known antennas.

Regarding claim 8, in the obvious combination, Kotola discloses wherein said system is a cellular telephone (pages 2-3, paragraph [0022]).

Regarding claim 9, Kotola discloses an article comprising a medium storing instructions that, if executed, enable a processor-based system to: receive a wireless signal in a handheld device in response to a request to use a processor-based system (pages 1-2, paragraph [0009]; page 3, paragraphs [0026]-[0027]); and transmit information related to said credential information to said processor-based system to enable access to said system (page 3, paragraphs [0026]-[0027]).

Kotola fails to disclose access credential information in a subscriber information module. Kotola, however, suggests that other methods of authorization information distribution can be used to suit the level security required.

However, in the same field of endeavor, Flodén discloses an article comprising a medium storing instructions that, if executed, enable a processor-based system to: receive a wireless signal in a handheld device in response to a request to use a processor-based system (col.. 8, lines 19-33); and accessing credential information in a subscriber information module (col. 8, lines 33-37).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to access the credential information of Kotola in a subscriber information module.

One of ordinary skill in this art would have been motivated to access the credential information in a subscriber information module because it would secure the transmission and prevent fraud.

Regarding claim 10, in the obvious combination, Kotola discloses further storing instructions that, if executed, enable the processor-based system to use a wireless protocol with a relatively short range to receive said wireless signal (Abstract; Figs. 1-2).

16. Claims 3, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotola in combination with Flodén (hereinafter “Kotola/Flodén”) as applied to claims 2, 5, and 9 above, and further in view of Applicant’s Admitted Prior Art.

Regarding claim 3, Kotola/Flodén disclose the method of claim 2 (see above). Kotola/Flodén fails to disclose including receiving a wireless signal pursuant to a wireless protocol that has a range of approximately 10 feet. Kotola does disclose the wireless signal pursuant to the wireless protocol BLUETOOTH (Abstract; Figs. 1-2).

Applicant’s admitted prior art discloses one wireless protocol that has a range of approximately 10 feet is BLUETOOTH (Specification: page 2, line 25 through page 3, line 2).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to include receiving a wireless signal pursuant to the wireless protocol of Kotola/Flodén that has a range of approximately 10 feet as suggested by Applicant’s admitted prior art.

One of ordinary skill in this art would have been motivated to include receiving a wireless signal pursuant to the wireless protocol that has a range of approximately 10 feet

because it would be in compliance with current and most up-to-date standards and procedures (note that Applicant's admitted prior art cites BLUETOOTH Specification V.1.0B (2003)).

Regarding claims 6 and 11, the limitations are rejected with the same grounds and for the same reasons and motivations stated above for claim 3.

*Conclusion*

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MSC



LESTER G. KINCAID  
PRIMARY EXAMINER